

**TOWN COUNCIL  
REGULAR MEETING  
FEBRUARY 2, 2000**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:03 p.m. by Mayor Venis and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present were Mayor Venis, Vice-Mayor Bush and Councilmembers Cox, Paul and Weiner. Also present were Town Administrator Middaugh, Town Attorney Webber, and Town Clerk Reinfeld recording the meeting.

**3. OPEN PUBLIC MEETING**

Mayor Venis advised the speakers of the Open Public Meeting procedures.

Monroe Kiar commended the Town on its efforts along Davie Road and indicated that it was exciting to see how the improvements were proceeding. He requested that the Town review placing or encouraging a grocery store on the east side of Town.

Bruce Novack, 4262 SW 78 Drive, concurred with Mr. Kiar regarding Davie Road and presented a petition regarding Griffin Road to Mr. Webber. He noted the potential for developing near State Road 7 and agreed with the Town's plans for the area. Mr. Novack requested input with regard to the uses in that area.

Jay Stahl, 5801 Surrey Circle West, stated that in the past, there had been negative campaigns and he felt the residents would like a cleaner campaign. He noted the other issues on the ballot pertaining to Broward County and the presidential primary.

Dean Alexander, 13820 SW 16 Street, referenced the death of Al Tyler approximately 1 1/2 years ago and the discussions with regard to possibly naming a street after him. He felt that Mr. Tyler was a pillar of the community and that naming a street after him would be appropriate. Mr. Alexander suggested the name "Al Tyler's Way" and requested that Council dedicate a street in his memory. Direction was given to Mr. Middaugh to place this issue under Old Business at the next Council meeting.

Peter James, 7300 Davie Road, referenced Code Sections 3-1 and 3-2 concerning alcoholic beverages and noted that two businesses were serving alcoholic beverages until approximately 9:00 a.m. He added that the Police Department had responded to approximately 57 calls at The Q and Brew and advised of a shooting last Saturday.

Corey Johnson, Parks and Recreation Advisory Board, advised that the Women's World Cup Soccer Team had been practicing in the community and the Team would be at Nova Southeastern University for the next four days.

Mr. Johnson referenced several discussions concerning the parks bond issue and felt there were numerous rumors which for the most part, were not true. He noted that the Board held several meetings in which volunteers and agenda items were requested. Mr. Johnson explained that there had been a tremendous effort to pass the bond and encouraged Council to look at the changes and additions required for the park projects. He noted that the Board did not object to reviewing changes; however, he expressed the Board's belief that even though there was room for change, the bond money should not change for projects that had not been endorsed. Mr. Johnson encouraged Council to find new monies, including grant monies, to support the new priorities.

Sandy Switzer, Open Space Advisory Committee, indicated that the parks bond affected some of the open space properties such as the Oak Hill Equestrian Park improvements and the Linear Park. She felt the bond issue was supported because the individuals who worked on the issue proposed that all residents would benefit from the

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bond. It was her belief that the bond issue was advertised and accepted in a certain format because the residents felt it was needed. Ms. Switzer questioned why Councilmember Weiner was proposing to divert funds from the Linear Park. She explained that the Linear Park was started approximately 15 years ago, was never finished, and would benefit all residents. Although the equestrian interest could use the park in its current form, it was her belief that all residents should have the opportunity to enjoy the amenities and that it was an essential link from the eastern and western portions of Town. Ms. Switzer noted that the part that had been completed was used by bicyclists, walkers, and equestrians. She encouraged Council to not let history repeat itself and referenced the diversion of funds to purchase palm trees along Davie Road. Ms. Switzer advised that a commitment had been made to the voters and she felt it would be unconscionable to violate that commitment. She implored Council to not use the money for any other amenity than its original intent.

Joyce Stewart, 10850 SW 25 Street, discussed the efforts of the individuals who helped pass the bond issue. It was her belief that as a result of several meetings, a plan was developed to serve all the residents. She indicated that the concentration had been for one centralized location with a first class park, gymnasium structure, and baseball and basketball fields. Ms. Stewart felt that the focus of the bond issue should be on the original proposal.

Patti Reid, 9625 Sycamore Court, concurred with Mr. Alexander's comments regarding Mr. Tyler. She expressed her hope that the street naming would come to proliferation. Ms. Reid encouraged Council to stay focused and to consider other options to expand and improve Potter Park. She was proud of the Bamford and Pine Island parks and felt that it was a shame that the residents could not be as proud of Potter Park. Ms. Reid concurred that parks needed to be throughout the Town and that the children needed to have the same chance as other children had been afforded throughout the Town.

Arthur Joseph, 13700 SW 18 Court, reiterated Mr. Alexander's comments regarding Mr. Tyler and believed the Town should consider hiring a full-time labor relations expert. With regard to the parks bond, he felt the bond served a good purpose even though he had not been in support of the bond. Mr. Joseph felt that the commitments made to the east side residents had not been kept and that the old commitments should be addressed prior to newer commitments. He commented that with regard to the past election, Vice-Mayor Bush's opponent seemed to carry the district because the residents felt "left behind".

Reesa Daniels, 6211 SW 38 Court, expressed concern with regard to the bond issue. She questioned how children could be encouraged to lobby for one issue and then Council decide not to proceed. Ms. Daniels further questioned how the Town could permit a "head shop" across from Nova.

Tom Truex, 4740 SW 72 Avenue, noted that he was still running in the election and indicated that there had been a mistake in the local newspaper. He commented on the planned commerce ordinance and expressed concern that the ordinance was "on hold" until after the election. It was his belief that it was a mistake not to address this issue because of legitimate concerns from residents regarding large tracts of land and that the residents should be aware of the elected official's and the candidate's position on this matter. Mr. Truex felt that if this issue was not brought forward because of staffing problems, then this needed to be addressed.

Mr. Truex questioned the status of the firefighter's grievances and the serious allegations that were made. He did not think it was fair that the individuals who were being accused to have a cloud hanging over their head nor was it fair that the firefighters

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were "going by an uncertainty". Mr. Truex stated that it was also not fair to the residents to be living under the uncertainty as to whether there were serious public safety issues that were being alleged.

Mr. Truex questioned the status of the transportation for senior citizens.

Geri Clark, 4141 SW 56 Avenue, commented that she was running for election in District 1; however, she realized that all of Davie needed to have someone new on Council. She felt there were numerous hard working Councilmembers and encouraged the passing of the helmet ordinance. Ms. Clark distributed pictures of Potter Park and indicated that this was what was viewed by members of the Parks and Recreation Advisory Board as it had "picked the wish list" for the park. She indicated that she was unsure whether all of the residents were notified, however, acknowledged that the Board was a hardworking group. Ms. Clark commented that she was not aware that Council had stated that it was reallocating bond monies and advised that Councilmember Weiner had suggested that Council seriously consider committing to finishing the park before moving to other issues. Ms. Clark stated that it was her belief that the bond issue was good, however, the way the funds were allocated was unfair and felt that the amenities at Pine Island Park should be built, but Potter Park should not be forgotten. She noted that as a Councilmember, she would offer determination, compassion, respect, and responsiveness.

Jean Messler, 13330 SW 29 Street, thanked the Budget Advisory Committee for encouraging Council to promote the Census and noted that the more residents that were counted, the more funding would be received. She encouraged everyone to vote in the Town's election and to participate in the presidential primary. It was her belief that if residents were not happy with a Councilmember, than they should voice their opinion by voting against that person.

Arthur Hurley, 4601 SW 128 Avenue, was present on behalf of family members who ran Bar-B ranch. He discussed the nuisance action that was brought against him in July 1998 requiring all odors to be eliminated from the horses on his property. He indicated that he had a Board of Health Certificate and Department of Agriculture Inspection indicating that he was practicing the best management practices. It was his belief that the only way in which to accomplish this requirement would be to close the business and remove the horses from the property which he thought was unfair and to which he had made an appeal to the Town. Mr. Hurley advised that a mediation was held in which an agreement was made and that Mr. Webber had indicated that he would present the agreement to Council. He stated that at the next Council meeting, he was advised that no further action was necessary. Consequently, he had hired an attorney. Mr. Hurley requested that Council take action prior to this becoming a bigger problem.

Ellen Christopher, 3666 West Valley Green Drive, noted that out of the Town's 36,097 registered voters, only 8,538 people had voted in favor of the bond issue, with 4,175 voting against the bond issue. Although, over 23,000 people had not voted, all of the property owners would be paying for the bond. She advised that the basic issue that was voted on was to issue bonds not to exceed \$12 million dollars for recreational projects, park acquisition, park improvements, construction and expansion of recreational facilities, community centers, and a multi-purpose facility to accommodate children, adults, and seniors. Ms. Christopher commented that while the Police Athletic League's (PAL) program would be participating in programs at the Bamford complex, Councilmember Cox had said that the PAL's home field would be at Potter Park. She questioned how this could be

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accomplished when there was only one field and a number of teams. Ms. Christopher noted Lisa Edmondson's comments with regard to Potter Park not being ignored because "a new baby would be coming."

Ann McNally, 10931 SW 31 Street, noted a problem with a property owner who had widened the ditch along their street in order to make it a canal. She explained that this road was a one-lane road and when the property owner widened the ditch, part of the property that was used to pass other vehicles was removed. Ms. McNally expressed fear that someone would end up in the canal since there was no ability to pass vehicles. She indicated that she had requested a sign stating that the road was a dead-end road; however, local maps showed the road as a thru-road. Ms. McNally requested that authorization be given for a sign to be installed. Additionally, she requested assistance from the Town since the garbage truck had knocked down her fence and it had not been fixed. Ms. McNally stated that she no longer permitted the truck to turnaround in her driveway and as a result, the residents were being neglected with regard to garbage pick up.

Dan Barr, 13323 SW 40 Street, felt it was unfair for Councilmember Weiner to "take the heat" for showing courage to rectify some inequities of the Town. He questioned how many individuals from the Parks and Recreation Advisory Board had visited Potter Park during the endeavor and encouraged Council to find out. Mr. Barr noted that he personally appreciated the facilities that he currently enjoyed, however, he expressed his disapproval of the way in which Potter Park was kept. He further questioned how Council could place landscaping along the canal banks when children were playing in the street because of no equipment, and the walls and ceilings were deteriorating.

Scott Morecraft, 4650 SW 70 Terrace, was present with regard to the truck stop. He indicated that at the January 26th meeting, Mr. Morris' attorney explained that there would be eight outlets for trucks to run their air conditioners and trailers. Mr. Morecraft objected to that issue and noted that trucks were not recreational vehicles and were not setup for long-term use.

Ben Tyson, President of the South Florida Trail Riders, expressed concern with regard to the decisions and planning being made regarding changes to complete the parks for the equestrians, bicyclists and hikers. He encouraged completion of the current projects and to develop a new initiative to assist the other parks such as Potter Park.

Richard Conrey, 11050 SW 42 Place, noted that he was also running for Mayor. He explained that he was trying to improve the Town and questioned why the Town did not have any bicycle paths. Mr. Conrey stated eight and a half years ago, he took it upon himself to do away with blasting and after he made statements that Council would be held personally accountable, a moratorium was placed on blasting. He felt there were several issues that need to be addressed which was the reason why he was running for Mayor.

#### **4. PRESENTATIONS**

4.1 Davie/Cooper City Chamber of Commerce  
No representative was present.

4.2 Upcoming Special Events - Sharon Pierce-Kent and Bonnie Stafiej

Sharon Pierce-Kent, Parks and Recreation Director, announced that upcoming events included: adult and senior crafters program (beginning February 15th); adults and seniors

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casino (February 22nd); Davie Players Theater Group (Tuesdays); availability of garden plots at the Eastside Community Garden; Young At Art art exhibit (February 25th); and baseball ratings (February 12th).

Bonnie Stafiej, Special Projects Coordinator, advised that upcoming events included: Hollywood Dog Club dog show (February 5th and 6th); arts and crafts show (February 12th and 13th); Broward County Legislative Delegation family picnic (February 13th); Paws for Applause (February 20th); concert in the park (February 20th); and Westfair kick (February 26th).

Mayor Venis announced that item 10.4 had been withdrawn.

Mayor Venis announced that items 10.7 and 10.9 needed to be tabled to February 16, 2000.

Councilmember Weiner made a motion, seconded by Councilmember Paul, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis announced that item 10.8 needed to be tabled to March 15, 2000.

Vice-Mayor Bush made a motion, seconded by Councilmember Weiner, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis announced that item 10.10 needed to be tabled to March 1, 2000. In a voice vote, all voted in favor. (Motion carried 5-0)

### **5. MAYOR/COUNCILMEMBERS COMMENTS**

#### **MAYOR VENIS**

**CONDOLENCES.** Mayor Venis extended his condolences to Edna Moore on the death of her husband. He also extended his condolences to the family of Ed Weisel.

**GROUNDBREAKING CEREMONIES.** Mayor Venis advised that he and Councilmember Cox had attended the groundbreaking ceremony for Reese Road. He thanked Dallas Hunt, Hamilton Forman, Jim Wolfe, Assistant Town Administrator Roberts Rawls, staff, the residents and Broward County. He indicated that construction would begin within two weeks and was anticipated to be completed within four months.

Mayor Venis further advised that he had attended the groundbreaking of the Hebrew Day Elementary School.

**ANNIVERSARY.** Mayor Venis announced that he had attended the tenth anniversary of the West Broward Woman's Club whose volunteer efforts had assisted the Town. He requested that a presentation be scheduled for an upcoming Council meeting so that he could present the Club with a Certificate of Achievement.

**DEDICATION.** Mayor Venis noted a street dedication on behalf of Mort Meyer on February 27, 2000.

**CORRESPONDENCE.** Mayor Venis advised that he had received a letter from Broward Beautiful requesting that the Town participate in some of their events. He indicated that he had received a letter from Bob Crawford, Florida Department of Agriculture, in which he recommended recertification of the Tree City award to the Town.

**SPEED HUMPS.** Mayor Venis asked Mr. Rawls to look into speed humps for the Ivanhoe community.

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**BLASTING.** Mayor Venis noted that a mayoral candidate had indicated that the candidate had addressed the blasting issue. Mayor Venis advised that when he was first elected to Council, blasting was a big issue and from 1994 to the present time, blasting had virtually been eliminated. He added that he had sponsored a very restrictive ordinance that had eliminated blasting in the Town.

**VICE-MAYOR BUSH**

**FIRE DEPARTMENT.** Vice-Mayor Bush thanked the Fire Department for a quick response to a brush fire on the north side of L Lake.

**COUNCILMEMBER COX**

**CONGRATULATIONS.** Councilmember Cox congratulated the Jewish Community Center on its groundbreaking ceremonies.

**NAMING OF LANDFILL PARK.** Councilmember Cox referenced a newspaper article which discussed the name of the park and noted that the County would like to name the park High Trails. She indicated that she had some support to name the park Big Sky Trails, however, the County would not entertain that name due to political reasons. Councilmember Cox stated that the County Commission had requested that the Parks and Recreation Advisory Board submit another name. She proposed that a list of suggested names be provided to the County and noted that her belief that it was important for the name to address the view and the vista of the park.

**COUNCILMEMBER WEINER**

**THANK YOU.** Councilmember Weiner announced that soccer season was officially over and thanked Coaches Omar and Rick as well as the entire Town's sports department.

**JOINT POWERS AGREEMENT (JPA).** Councilmember Weiner stated that the JPA would be discussed at the next Council meeting and input would be received from the Fire Department on its beliefs whether to phase in the Department as a full single tier system or to extend the JPA.

**LITIGATION ISSUES.** Councilmember Weiner indicated that he had met with Mr. Webber and Suzanne McLean to discuss the Federal Fair Housing Act research conducted as a part of litigation that was settled last year. He referenced the legalities of the ordinance and that the Act was in "legal limbo". Councilmember Weiner requested that Mr. Webber obtain a model ordinance from another municipality, draft an ordinance and move forward as he would like to show that every effort had been put forth by the Town to be in compliance.

**AQUACULTURE FACILITY.** Councilmember Weiner noted that he had met with Dr. Bacca this past week and was advised that the Town had sold approximately \$30,000 in fish and produce since 1997; however, the Town had lost \$253,000 since September 1998 with an approximate \$100,000 additional loss this year. He welcomed the opportunity for their presentation to takeover the program and noted that another entity was interested in purchasing the facility.

**OCCUPATIONAL LICENSES.** Councilmember Weiner referenced the 90-day amnesty program and requested an update with regard to the status of the license.

**CONDOLENCES.** Councilmember Weiner extended his condolences to Ms. Moore on the death of her husband.

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**TRAFFIC.** Councilmember Weiner announced that a letter had been sent requesting a traffic study on Nob Hill Road. He was hopeful that a traffic signal would be placed on Nob Hill Road so that children could safely access Bergeron Park.

**PROPOSED HOTEL MEETING.** Councilmember Weiner advised of a meeting on February 3rd at the Police Station to discuss the proposed hotel on State Road 84.

**LEGAL BILLS.** Councilmember Weiner advised that he had previously indicated that he would not appeal the lawsuit between himself and Vice-Mayor Bush regarding the constitutional dual office holding issue. Councilmember Weiner referenced his request for Mr. Webber to determine whether he and Vice-Mayor Bush could vote on this issue and requested that the legal bills be reviewed at a Council meeting.

**COUNCILMEMBER PAUL**

**CONDOLENCES.** Councilmember Paul extended her sympathy to Ms. Moore and the family of Mr. Weisel.

**GROUND BREAKING.** Councilmember Paul noted that she had attended the groundbreaking ceremony at the Jewish Community Center's and looked forward to a nice facility.

**WOMEN OF VISION LUNCHEON.** Councilmember Paul advised that she had also attended a luncheon sponsored by the Whiteman Institute of Science and Medicine and had met Hillary Clinton and Dr. Ruth.

**RESPONSES TO REQUESTS.** Councilmember Paul commented that she felt responses to requests were slow and noted a fifth request to Budget and Finance Director Christopher Wallace for information that had been requested in August.

Councilmember Paul stated that she believed that Mr. Hurley's statements needed to be addressed and noted that the Agrarian Committee needed to have a response to a letter written one year ago. She referenced a decision by Special Master Joe Major to have the Special Master act as a mediator and all of the participants had agreed. Councilmember Paul stated that a report was to be provided to Council for whatever action was deemed appropriate. She noted her amazement that a year had elapsed with no report and questioned why the mediation was delayed. It was her belief that Bar-B Ranch was a farm, was compatible with the Town's image, and the Hurleys provided something special to the Town. Councilmember Paul indicated that the Hurleys had made every effort to comply with the wishes of the neighbors and to be good neighbors. She referenced the attempts to pursue the equestrian lifestyle in the community and felt that the Town needed to pursue a good faith effort with regard to this matter. Councilmember Paul noted that the community began as an agricultural community and the Future Land Use Map did not designate any place for future agricultural uses, yet the agricultural spaces were a part of the green space and did not impact the Town services.

**CONGRATULATIONS.** Councilmember Paul congratulated the Broward Delegation and Representative Debbie Wasserman-Schultz for their stand on removing assault weapons from the street. She expressed her belief that weapons of this type were dangerous to young people and law enforcement officers.

**BLACK HISTORY MONTH.** Councilmember Paul reminded everyone that February was Black History Month and suggested visiting the Old Dillard School Museum.

**SEMINOLE HERITAGE MONTH.** Councilmember Paul advised that February was also Seminole Heritage Month and there would be several events throughout the month.

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Councilmember Weiner noted that he had received a phone call from Mr. Hurley and Councilmember Weiner stated that it was his impression that the litigation was over. He questioned whether there would be the potential that the litigation could continue since it was dismissed without prejudice. Mr. Webber responded affirmatively.

### **6. TOWN ADMINISTRATOR'S COMMENTS**

**CITIZEN'S ASSEMBLY.** Mr. Middaugh advised that the Assembly would meet on a quarterly basis beginning February 22nd.

**NEGOTIATIONS.** Mr. Middaugh indicated that he had hoped to bring forward an agreement with the fire union and explained that staff was working on some contract language. He expressed his desire to present this matter for ratification at the next Council meeting. Additionally, he felt the agreement with the police union would also be presented at that meeting.

**SUNSHINE RANCHES/SOUTHWEST AREAS.** Mr. Middaugh noted that information had been compiled with regard to what the Town had to offer to the Sunshine Ranches and the southwest areas that were considering an incorporation vote.

**PARKS.** With regard to the two parks on the east side, Mr. Middaugh advised that planning process meetings would be held on February 23rd and February 28th. He hoped to provide a two-part process in which the amenities for the park and their priority would be discussed. Mr. Middaugh added that this information would be used to obtain grants.

**RENAMING OF STREETS.** Mr. Middaugh distributed a list of proposed street names with regard to individuals that would have streets named after them. Councilmember Weiner concurred with the list and suggested adding the name "Al Tyler Way" to his street in Arrowhead.

**AQUACULTURE FACILITY.** Mr. Middaugh referenced the fish farm project and noted that he had discussed this issue with Nova Southeastern University. A proposal was being developed to turn the farm into a profit center that would involve the University's business school and investment of Nova farms. He indicated that direction had been provided that if there was no revenue return to the Town, than some other approach to the facility would be reviewed.

Mayor Venis felt that any costs to sell the property would be profit since the other costs had been part of the demolition costs. He noted that he had received several inquiries with regard to purchasing or leasing the facility. Mayor Venis suggested that if the University was not considering purchasing the property, that other interests from the private sector should be sought.

### **7. TOWN ATTORNEY'S COMMENTS**

**LITIGATION.** Mr. Webber provided an update on litigation in which the Town was involved: Orendello, Chapter 175/185 monies, Coastal Carting, Sunrise, Statewide, LDG, Rowars, Transamerica Land, and FLP.

Regarding the Bar-B Ranch litigation, Mr. Webber advised of a hearing conducted on January 24, 2000 in reference to a motion to dismiss their appeal. He indicated that the Town's goal had never been to win but the approach was to try and resolve the issue with Mr. Hurley while taking into consideration the problems that the neighbor's had expressed. Mr. Webber stated that the mediator had initially advised that he did not have jurisdiction;



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however, since the neighbors were present and had concerns, the mediator attempted to resolve the issue. He advised that the only possibility that could be brought before Council was if an agreement was reached; however, there was no agreement. Mr. Webber assured Mr. Hurley that his office had no intention of closing his business. He advised that Mr. Hurley felt that he was operating under the best management practices and should do nothing different. Mr. Webber stated that the Town was willing to compromise and had made proposals to Mr. Hurley, none of which would close his business, but would hopefully resolve the neighbor's issues. He commented that everybody should have an open mind and he urged all sides to consider the Town's proposals. Mr. Webber noted that he was not aware of the proposals that staff was formulating.

Councilmember Paul noted that Mr. Hurley had found an enzyme that was being used to resolve the odors, moved the jiffy john, and provided additional landscaping; however, there had been a setback on the landscaping due to the hurricane. She felt that the issue was his right as a farmer on agricultural and farmland and it was her belief that his rights should be a part of the discussion as Mr. Hurley had gone to an expense to make some effort to deal with the problem. Mr. Webber advised that he was aware of the enzymes, however, he had not discussed all of the practices with Mr. Hurley. Mr. Webber felt that Mr. Hurley was a man of good intentions and was trying to resolve this matter.

Mr. Webber advised that two approaches could be taken: 1) the order could be enforced and fines imposed as was done in some cases, or 2) an approach could be taken to try to resolve the issue. He stated that the neighbors were entitled to have their concerns heard and addressed and advised that Code Compliance Supervisor Daniel Stallone was working on proposals to present to Mr. Hurley. He reported that the Town was doing the least required to protect the interests of the Town and that he was attempting to protect the interest of the Town while formulating a resolution to the problem.

Mayor Venis questioned whether staff had checked on the enzyme problem. Mr. Webber indicated that Mr. Stallone had visited the property on numerous occasions as there were only certain conditions when the odor was a problem. Mr. Webber added that he had also visited the property and had not detected an odor problem but reiterated that the odor problem was bad under certain conditions. He advised that the neighbors felt that at certain times, the odor was offensive and was harmful to their quality of life.

Councilmember Paul noted that she had visited the property on several occasions at different times of the day and she had never detected a strong odor. She felt that a certain amount of odor emanated from horses which was a part of having a farm. Councilmember Paul stated that this appeared to be a movement by a group of individuals who did not want this endeavor in their backyard.

Mr. Webber noted that Mr. Hurley had expressed similar comments including that the Town was trying to "shut him down" because the neighbors were unhappy with his business. Mr. Webber emphasized that his office was not trying to put Mr. Hurley out of business and noted that the complaints that he had received were regarding the odor. It was his belief that the only issue was the odor problem and that there needed to be some resolution. Mr. Webber acknowledged that there were a number of horses in a concentrated area.

Mayor Venis questioned the distance of the odor complaints. Development Services Director Mark Kutney explained that Mr. Stallone was diligently working on this matter and was attempting to formulate some proposals. He indicated that Mr. Stallone had

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attempted to contact Mr. Hurley's attorney to meet to discuss some of the proposals. Mr. Kutney indicated that the odors that staff observed were at different times and under different conditions. He noted that the observations had been conducted for approximately two months and suggested that a report of staff's findings be submitted.

Regarding 142nd Avenue, Mr. Webber indicated that if the Town wanted a decision that would assure all the property owners would be binding, the Town would have to name the property owners as parties to the action. He explained that the Town was not seeking damages; however, the Town would be suing its residents. Mr. Webber explained that if the Town moved forward without naming these individuals, it was possible that the ruling would be binding; however, he was not able to provide that assurance. He requested direction from Council.

Councilmember Weiner commented that he had been present at the hearing and felt that Ms. McLean's arguments were ardent and forceful as well as the attorney for the residents. He explained that there were two views: 1) the Town had the right to install a trail system, and 2) the residents could view the trail as a taking of their property rights. Councilmember Weiner indicated that he would vote against a trail system on SW 142nd Avenue because of the uncertainty of the title and if the Town was to proceed, a motion was needed to sue the residents.

Mr. Webber advised that the Town had three options: 1) name the residents as defendants and move forward; 2) move forward with the current parties; or 3) abandon the effort.

Councilmember Paul felt that this issue should not be abandoned and that the Town should determine whether or not this was Town property. She expressed her belief that the Town should not proceed if this was not Town property.

Councilmember Weiner explained that the core issue was whether the Town had the property rights to install a trail; however, in order for the Court to determine the property rights, the Town would have to sue the homeowners. Mr. Webber concurred and noted that the only way to ensure whether the Town had those rights was to obtain a court determination.

Councilmember Paul expressed concern that if this issue was not pursued, some of the other trails that backed up to homes might be endangered. Mr. Webber advised that the title to the property was unique and that legally, there would not be a precedent; however, this action might make property owners more resistant to using rights-of-way.

Councilmember Cox questioned if the Town was successful in this action, would the Town be afforded greater grounds if other actions were taken. Mr. Webber clarified that the issues decided by the Court in this action would be eliminated. However, the problem in proceeding would be that each title might be different and different issues might be raised. Mr. Webber felt that rather than taking a piecemeal approach, the issue should be decided at one time.

Mayor Venis explained that he had originally voted against taking this action due to the legal uncertainties and added that the Town was no closer to resolving those issues than when this matter was originally brought forward. He explained that he was not in favor of suing the residents and the Town should not take this action with all of the legal

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uncertainties. Mayor Venis felt it was hostile for the Town to sue its residents because of these uncertainties. Mr. Webber responded that there had been no action taken on the title matters and expressed hope that a decision would be reached after the litigation.

Councilmember Weiner noted that property owner's counsel would probably recommend a postponement and would withdraw the agreement since the judge had ruled that the agreement was not relevant which would prolong the litigation further.

Mayor Venis expressed his desire that the issue should be dropped.

Councilmember Cox felt that consideration should be given to the safety issue in Oak Hill and noted that this issue had been discussed since 1990. She expressed her belief that if the Town dropped this issue, then those concerns had not been addressed. Councilmember Cox expressed her desire for a final resolution and to have all the issues defined which were the only two reasons why she would pursue the issue. She further explained that if this issue was not resolved, it would be brought up again.

Councilmember Weiner stated that if the residents desired a resolution, they would follow suit similar to Ms. Klueger and obtain a declaration of their rights. He felt that some of the residents would like to prolong this issue since some residents did not wish to have the trail. Councilmember Weiner expressed his belief that the residents would not sue the Town. He noted that in the discussion two years ago, he had questioned whether the title rights could be defined; however, Council went forward with the litigation. Councilmember Weiner felt that Council should either drop the issue or move forward. Councilmember Paul questioned whether Councilmember Weiner had requested a title search and if it had been done. Councilmember Weiner commented that the tapes of the meeting would show that he had asked about the title of the property and why the Town did not obtain a commitment. However, the motion was to move forward with the trail.

Councilmember Paul expressed her disapproval of being in a position of suing the residents, however, this issue had been ongoing for some time. She commented that she had made a commitment to the residents in Oak Hill to find safe areas to ride. Councilmember Paul expressed her belief that the safety issue was vital and there should be places for children to ride their horses. She referenced the trail along SW 139th Street; however, there were numerous safety concerns with cars speeding and cars beeping their horns. Councilmember Paul stated that she would like to see the issue resolved and whether or not this was the Town's property. She questioned whether SW 142nd Street was ever removed from the trafficway with Mr. Rawls responding in the affirmative.

Mayor Venis commented that he appreciated Councilmember Paul's comments; however, he felt the issue was not that simple. It was his belief that if the answer was to review the title policies then the answer would have been forthcoming sooner. Mayor Venis felt that the Town would not have access on all the properties.

Councilmember Paul commented that when she moved to the area, she had been able to ride in that area and it was her belief that only a few individuals used the area. She indicated that some of the residents felt the necessity to erect a fence, which caused other residents to complain. Councilmember Paul explained that several of the residents had taken the easements for their fences which meant the equestrian riders had to ride on the roads. She noted that the residents felt crime would increase, however, these concerns had been addressed. Councilmember Paul suggested that the Town attempt to find a friendly agreement so that the children could pass through the area to safely go to the trail system.

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Councilmember Weiner noted that if the Town proceeded with the lawsuit in its present form, there was a potential for lawsuits from each property owner. Mr. Webber concurred. Councilmember Weiner stated that if the Town sued the residents and succeeded, it would be to complete the trail system in that area. If the Town sued and lost, the Town had the opportunity to take some of the property by eminent domain or condemnation.

Councilmember Weiner made a motion, seconded by Mayor Venis who passed the gavel, to abandon the lawsuit and to provide the Town Attorney the authority to negotiate a settlement. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - no; Councilmember Cox - no; Councilmember Paul - no; Councilmember Weiner - yes. (Motion failed 3-2)

Councilmember Weiner questioned whether the litigation would resolve all the rights along SW 142nd Avenue, without adding additional defendants. Mr. Webber responded negatively.

Councilmember Cox made a motion, seconded by Councilmember Paul, to pursue the lawsuit with the hope that there would be a final resolution as to who had rights to use the property as a trail easement or as the resident's personal property. She clarified that the lawsuit would be to sue all the residents in order to resolve the issue of who had ownership of the property. In a roll call vote, the vote was as follows: Mayor Venis - no; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - no. (Motion carried 3-2)

### 8. CONSENT AGENDA

#### *Minutes*

- 8.1 December 13, 1999 - Workshop Meeting
- 8.2 December 15, 1999 - Regular Meeting

#### *Proclamation*

- 8.3 Engineer's Week (February 21 - 27, 2000)

#### *Home Occupational License*

- 8.4 Jack Salafrio, 2121 SW 136 Avenue

#### *Waiver of Occupational License Fee*

- 8.5 St. Bernadette Church, 7450 Sterling Road (carnival; February 17 - 20, 2000)
- 8.6 Orange Blossom Festival Parade and WestFair Events Sidewalk Sales (February 29 - March 5, 2000)

#### *Resolutions*

- 8.7 **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING**  
R-2000-14 **THE BID FOR POLICE AND FIRE DEPARTMENT UNIFORMS. (Argo**  
**Uniform; \$35,000)**

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- 8.8  
R-2000-15      **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR PHOTOGRAPHIC FILM DEVELOPING SERVICES. (LFD Photography, Inc.)**
- 8.9  
R-2000-16      **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN BOYS AND GIRLS CLUB OF BROWARD COUNTY AND THE TOWN OF DAVIE. (Westfair - waiver of fee; estimated cost - \$6,000; February 29 - March 5, 2000)**
- 8.10  
R-2000-17      **REPEALING AND REENACTING - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REPEALING RESOLUTIONS R-93-70, R-94-20, R-95-100, R-95-206, R-96-208 AND R-96-225 CONCERNING THE DAVIE WATER ADVISORY BOARD; ESTABLISHING A NEW DAVIE WATER ADVISORY BOARD; PROVIDING FOR MEMBERSHIP OF THE BOARD; PROVIDING FOR TERMS OF OFFICE FOR IT'S MEMBERS; PROVIDING FOR FUNCTIONS AND DUTIES OF THE BOARD; AND PROVIDING AN EFFECTIVE DATE.**
- 8.11  
R-2000-18      **RECERTIFICATION - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REQUESTING THE BROWARD COUNTY PLANNING COUNCIL RECERTIFY THE TOWN OF DAVIE FUTURE LAND USE ELEMENT AND FUTURE LAND USE PLAN MAP; PROVIDING FOR AN EFFECTIVE DATE.**
- 8.12  
R-2000-19      **TRANSMITTAL - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING STAFF TO TRANSMIT TRAFFICWAYS PLAN AMENDMENT APPLICATION TA-00-1 TO THE BROWARD COUNTY PLANNING COUNCIL; AND PROVIDING AN EFFECTIVE DATE.**
- 8.13  
R-2000-20      **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A DISASTER RELIEF FUNDING AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING AN EFFECTIVE DATE.**
- 8.14  
R-2000-21      **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH AP ADLER OAKES, LTD. FOR LANDSCAPE MAINTENANCE; AND PROVIDING AN EFFECTIVE DATE.**

*Site Plans*

- 8.15      *SP 12-8-99, Holiday Inn Express, 4801 - 4991 SW 148 Avenue (PUD) Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval subject to the planning report and items one and two*

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- 8.16 SP 1-4-00, 7-Eleven, Weston & Griffin, northeast corner of Griffin Road and Weston Road (BP) *Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval subject to the planning report and that the photometrics be approved by Engineering; and that the landscape plan reflect the site plan revisions*

Mayor Venis asked that item 8.9 be removed from the Consent Agenda. Councilmember Paul asked that items 8.1, 8.2 and 8.11 be removed. Councilmember Cox asked that item 8.12 be removed.

Councilmember Weiner made a motion, seconded by Councilmember Cox, to approve the Consent Agenda without items 8.1, 8.2, 8.9, 8.11 and 8.12. In a voice vote, all voted in favor. (Motion carried 5-0)

8.9 David Hughes, representing the Boys and Girls Club, advised of the upcoming Westfair events.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

8.1 and 8.2 Councilmember Paul asked that these items be tabled as she had made corrections but had failed to provide them to the Town Clerk's Office.

Councilmember Paul made a motion, seconded by Councilmember Weiner, to table to the next meeting [February 16, 2000]. In a voice vote, all voted in favor. (Motion carried 5-0)

8.11 Councilmember Paul expressed concern with regard to flex units, the ability to allow changes to density without the benefit of a public hearing and the need for individual scrutiny of Council on a case-by-case review. She referenced the backup material in which the Town and/or applicant was not required to go through the land use plan process, however, this process protected the rights of the citizens who would be affected by the changes. Councilmember Paul indicated that a process was in place and that each land use change needed to be addressed by Council for discussion. She expressed concern with regard to the fact that bonus density would be afforded to parcels of land where deemed appropriate and questioned who would make this judgment. Councilmember Paul felt that she could not support this issue.

Mr. Kutney explained that the Town did not have any option with regard to recertification. He noted that this was mandated by the Broward County Planning Council after a municipality undertook a Comprehensive Plan Amendment. If the plan was not recertified, the Town's plan would be found to not be consistent with the Broward County Land Use Plan, which led to other issues. Mr. Kutney indicated that the flexibility provisions were a requirement of the Planning Council and in terms of a public hearing, this was usually done in a public hearing setting since a rezoning or other action was usually conducted in conjunction with the flexibility. By providing this ability, the developer would not be required to go through the Comprehensive Plan Amendment process. Mr. Kutney noted that this information would have to be provided independent of any recertification and explained that this looked ominous due to the fact that of the major Regional Activity Center action taken by the Town. He indicated that due to staff shortages,

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the plan amendments had not been addressed; however, this issue needed to be addressed with the County so as to avoid any conflicts in the future. Mr. Kutney explained that staff was required to transmit by resolution in order for the County to take action.

Mayor Venis questioned the intent of staff. Mr. Kutney clarified that this amendment was previously approved and staff was showing the County what had occurred so that the County could recertify the plan. Mr. Middaugh explained that flex units were not the issue. The intent was to notify the County as to what had already been approved and added that the flex issue was not being addressed at this time.

Councilmember Paul questioned the benefits of flex units to the Town and the residents. Mr. Kutney cited an example of Griffin Road and the use of flex units as it related to the mixed-use concept and allowed for different densities without having to go through the land use plan amendment process. He indicated that the checks and balances were that the County had to approve the process along with the Town's approval process.

Councilmember Paul questioned if she were to vote in favor, it would only be to certify what the Town had already done and if she were to vote no, it would be an indication that she was voicing an objection. Mr. Webber explained that the record would indicate that she had voted against the recertification.

Councilmember Cox indicated that the County was not receptive to a developer presenting an application for flex units and stated that a bed and breakfast could not be built along Griffin Road without flexing some residential units. Mr. Kutney indicated that the flex units represented the difference between the County's plan versus the Town's plan. If there were more units in the Town's plan than in the County's plan, nothing could be done.

Councilmember Paul expressed concern with regard to residents being confused and that Council needed to discuss the issue so that the residents could understand the entire issue.

Councilmember Weiner made a motion, seconded by Councilmember Cox, to approve. In a voice vote, with Councilmember Paul dissenting, all voted in favor. (Motion carried 4-1)

8.12 Councilmember Cox commented that the report showed that it basically prohibited the County from requiring right-of-way dedication; however, it also prohibited the Town from extracting rights-of-way that the trafficways required. She noted that the requirement for the businesses to the west of University Drive would have a 25 foot buffer. Councilmember Cox expressed her concern that if Orange Drive was removed from the trafficways, commercial development would only place a 25 foot buffer from the edge of pavement to the beginning of the parking lot. She suggested that Council consider another mechanism to provide a larger buffer along the Orange Drive corridor as Council had determined that Orange Drive would be different from some of the other streets. Councilmember Cox commented that the intent was to not expand Orange Drive but to provide a scenic by-way in the Town. She felt that this resolution would be a good idea; however, the timing was wrong and a mechanism needed to be in place so that Orange Drive could be preserved with the additional buffering. Councilmember Cox noted that Council might consider relaxing the 80 foot buffer requirement in the CRA area.

Councilmember Weiner concurred for the most part with Councilmember Cox and questioned the location of the commercial development that she had referenced.

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Councilmember Cox responded that the development was on the east corner of Flamingo Road and Orange Drive. She felt that it was an inevitable process but noted that she was not aware of potential development. Councilmember Cox recommended that this matter be tabled so that other mechanisms could be reviewed to provide larger buffer areas along Orange Drive.

Mr. Middaugh clarified that the issue which prompted this matter was to preserve Orange Drive in its present form. He suggested that consideration be given to a scenic corridor enhancement or preservation technique similar to the Griffin Road corridor that could be applied to Orange Drive and other roadways as deemed appropriate. Mr. Middaugh noted that staff would probably not be able to address this concern immediately and that without the trafficways change, Council did not have to give up rights-of-way. He felt that any type of development that would be impacted by excessive amounts of rights-of-way would be dealt with by staff. It was his belief that this resolution would ultimately benefit the community and could provide a long-term benefit. Mr. Middaugh encouraged Council to review this matter, however, he cautioned that staff would probably not be able to produce a product until the next trafficways cycle which could be approximately one year.

Mr. Kutney noted that the deadline for submission was February 29th and added that staff was still working on providing additional information to the County.

Neal Kalis, representing FMC Telecommunications, requested that Council consider moving the downtown area from Davie Road to State Road 7 through the process, otherwise, the process would delay his client. He concurred with Councilmember Cox and expressed his belief that green space was desirable, however, the use of the right-of-way to accomplish green space needed to be done in a different manner. Councilmember Cox stated that she did not object to the CRA district or pulling the downtown area off the trafficways. She felt that the product was different from the downtown area versus the University Drive corridor and Town Hall west. Mr. Webber clarified that the resolution called for Orange Drive between State Road 7 and 142nd Avenue.

Councilmember Cox made a motion, seconded by Councilmember Weiner, to change the request from staff to remove the Orange Drive corridor from Davie Road to 441 from the trafficways. In a roll call vote, the vote was as follows: Vice-Mayor Bush - yes; Mayor Venis - yes; Councilmember Weiner - yes; Councilmember Paul - yes; Councilmember Cox - yes. (Motion carried 5-0)

Councilmember Cox commented that perhaps the Town could work with the CRA to develop a plan to promote this matter.

## 9. PUBLIC COMMENTS

*Ordinance - First Reading (Public Hearing to be held February 16, 2000)*

- 9.1 **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO B-3, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-1-99, Imagination Farms Commercial, 12401 Orange Drive)



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Town Clerk Reinfeld read the ordinance by title. Mayor Venis advised that a public hearing would be held on February 16, 2000.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Vice-Mayor Bush made a motion, seconded by Councilmember Weiner, to approve subject to the deed restrictions. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - yes; Councilmember Cox - out of room; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 4-0)

#### **10. PUBLIC HEARINGS**

*Ordinance - First Reading (Second Public Hearing to be held February 16, 2000)*

10.1 **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, SECTION 12-32 ENTITLED "TABLE OF PERMITTED USES, SUBSECTION (A) "RESIDENTIAL DISTRICTS," AND (B) "COMMERCIAL OFFICE AND BUSINESS DISTRICTS," TO PROVIDE FOR BED AND BREAKFAST ACCOMMODATIONS AS A PERMITTED, CONDITIONAL OR PROHIBITED USE; AMENDING SECTION 12-34 ENTITLED, "DETAILED USE REGULATIONS" BY CREATING NEW SUBSECTION (EE) ENTITLED, "BED AND BREAKFAST ACCOMMODATIONS," ESTABLISHING REGULATIONS GOVERNING THE APPROVAL, LOCATION, SIZE, OPERATION, ON-SITE FACILITIES, APPEARANCE, AND OTHER CHARACTERISTICS OF BED AND BREAKFAST ACCOMMODATIONS; AMENDING SECTION 503 ENTITLED, "DEFINITIONS" PROVIDING A DEFINITION OF "BED AND BREAKFAST ACCOMMODATION"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from January 5, 2000)**

Mayor Venis advised that the second and final reading of the ordinance would be held on February 16, 2000. Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Mr. Kutney explained that the Town and the County had a disagreement with regard to the interpretation of using the 5 percent commercial rule as it related to the residential aspects of the proposal. As a result, bed and breakfast accommodations being incorporated into residential districts were difficult to achieve. Staff was recommending that direction be given to prepare a new ordinance which would restrict bed and breakfast accommodations to the commercial districts that were identified in the ordinance. Mr. Kutney noted that he had spoken with Mr. Webber who agreed that the recommended changes would be significant and would require a new public hearing and ordinance. He indicated that Council could withdraw this ordinance and direct staff to present another ordinance or it could take no action.

Councilmember Weiner expressed his desire for Council to follow staff's recommendations. He felt that there were certain areas in which bed and breakfast accommodations would be desirable and he would not like this issue to disappear because of concerns regarding the accommodations being placed in single-residential areas.

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Councilmember Paul explained that she wanted to see the bed and breakfast concept moved forward, however, she would like to ensure that the number of rooms were limited. In order to keep the flavor of bed and breakfast accommodations, she felt the number of rooms should be limited to five. Councilmember Cox commented that a bed and breakfast would be placed in a commercial site and that she did not believe five rooms would work. Mr. Kutney noted that staff would have to review the number of bedrooms and the feasibility of increasing the number of rooms.

Mayor Venis questioned why bed and breakfast accommodations in a commercial area could not be approved on a case-by-case basis. Mr. Kutney responded that staff did not provide for the use unless it was provided for currently in the Western Theme District and in the Griffin Road Corridor Districts. He indicated that a use had to be identified where it was permitted which would limit the use to six zoning districts. Mr. Kutney suggested that zoning districts and categories needed be identified along with the current safeguards that were in place.

Councilmember Weiner made a motion to direct staff to make the suggested changes and to start the process over. The motion died due to the lack of a second.

Vice-Mayor Bush made a motion, seconded by Councilmember Weiner, to withdraw item 10.1. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 5-0)

#### *Ordinances - Second and Final Reading*

2000-7      10.2      **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, ARTICLE III, BY ADDING SECTIONS 12-32.300 THROUGH 12-32.399 TO CREATE THE GRIFFIN CORRIDOR DISTRICT; PROVIDING FOR DISTRICT BOUNDARIES, DISTRICT INTENT, MASTER PLANS, PERMITTED, RESTRICTED, PROHIBITED AND ACCESSORY USES, ARCHITECTURE, DEVELOPMENT STANDARDS, AND, INCENTIVES AND WAIVERS; AMENDING ARTICLE XIII, SECTION 12-386 TO REMOVE THAT PORTION OF THE WESTERN THEME OVERLAY DISTRICT LYING SOUTH OF THE C-11 CANAL FROM THE WESTERN THEME OVERLAY DISTRICT BOUNDARY DESCRIPTION; AMENDING SECTION 12-503 TO PROVIDE DEFINITIONS; AMENDING THE ZONING MAP OF THE TOWN OF DAVIE BY REZONING LAND FROM A-1, R-5, RM-10, RM-16, MH-10, B-1, B-2, B-2 WESTERN THEME OVERLAY DISTRICT, B-3, C-1, U, AND CF, TO GRIFFIN CORRIDOR DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from January 5, 2000)**

Town Clerk Reinfeld read the ordinance by title.

Jeff Katims, Planning and Zoning Manager, discussed the meetings there were held with the residents. He noted that as part of the planning concept, commercial development was directed towards the center of the intersection and emanated from that roadway whether in a circular or sector type patter. Mr. Katims two graphics which illustrated how an activity center or node could function. He stated that the master plan was a vital part of the proposal for the Griffin Road corridor.

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Mr. Katims noted the following benefits if the ordinance was approved: 1) architectural theme requirements; 2) regulations for loading areas; 3) increased buffer requirements between residential/single family and non-residential property lines; 4) four-sided architectural requirements; 5) side setbacks addressed including increased buffer requirements; 6) more extensive landscaping along Griffin Road; 7) parking lots could not be visible from Griffin Road; and 8) restricted/prohibited uses.

Mr. Kutney commented that the Private Property Rights Protection Act defined an inordinate burden. He advised that this Act restricted the Town from down-zoning or taking away a property owner's zoning rights.

Mayor Venis asked if anyone wished to speak for or against the ordinance.

Jane Radanof, 4747 SW 72 Avenue, thanked Council and staff for their work in developing the District. She urged the passing of the ordinance with the revisions that staff had proposed.

Councilmember Weiner noted that he had spoken with Mr. and Mrs. Cosner, Bruce Novack, and Mrs. Kalis with regard to the workshop meetings. In addition, he had spoken with Mr. Kalis who advised that he would be making a presentation at tonight's meeting.

Tom Truex, 4740 SW 72 Avenue, urged Council to pass the ordinance and indicated that he concurred with staff's recommendations. He expressed concern that the building height should be limited in height rather than floors. Mr. Truex commented that some of the nodes called for a 60 foot high building, which he felt was too tall. In the past, previous Councils had denied the taller structures and the opportunity should not be provided for a possible impact in other areas of Town. He felt exceptions could be granted for additional footage to allow for sloped roofs; however, a 60 foot building was not acceptable and he also objected to the ground floor parking exception. In Section 12.32.304, Mr. Truex questioned the permitted use of 5-10 dwelling units per acre, such as townhouses, which would not be a benefit to the tax base. Section 12.33.20, referenced Council's ability to waive certain provisions in the master plan for an overall affect. It was his understanding that public notices had to be provided for residents within 25 feet for that section as well. Mr. Truex felt that this was important to provide notice to the public if exceptions were to be granted or restrictions were to be waived; however, he observed that notification was only given to the public on the hotel issue. Lastly, it was his belief that the purpose of the corridor was to not permit multiple variances on certain non-viable parcels because that would affect the intent of the District. Mr. Truex suggested adding the intent to Section 12-32.301A.

Bob Waitkus, 4720 SW 72 Avenue, concurred with staff's amended suggestions with the exception of the University node being increased to SW 76 Avenue.

Joe Cosner, 4451 SW 77 Avenue, referenced petitions in which signatures were obtained. He advised that he was not behind the petition drive, however, residents had come to him expressing concern with regard to building heights, hotels, gas station, nightclubs, and movie theaters. Mr. Cosner provided photographs of what he thought was the intent of the residents at the workshop meetings and indicated the resident's strong objection to hotels of the residents. He indicated that the residents were not trying to take away the commercial designation, however, they objected to some of the uses. Mr. Cosner believed that the node between Pine Island Road and University Drive could be used for other uses, because there were existing businesses and cautioned Council not to give away

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too many concessions. He noted his belief that this was a good plan and he was supportive, however, there needed to be some changes such as notification of residents. Mr. Cosner felt that there should be more family-type businesses and that everyone would profit.

Councilmember Cox questioned whether it was the residents consensus that nothing would be higher than 45 foot on the entire corridor and if the hotel issues were restricted from the node on the west side of the turnpike. She further questioned whether the residents were in agreement with regard to the setbacks on the University Drive node. Mr. Cosner responded that the 35 foot restriction along with the additional 10 foot "art work" would apply to the entire corridor. He clarified that the residents proposed that the hotel would be restricted from the eastern node west. With regard to the setbacks, Mr. Cosner stated that the node should end at the Eckerds and the Amoco gas station. It was his belief that the other properties should remain commercial and be used for an office park or a similar use rather than a store use. Mr. Cosner advised that most of the offending uses had been removed from the ordinance.

Councilmember Weiner questioned the ingress/egress on University Drive and the affect upon the traffic pattern at the intersection of Griffin Road and University Drive. Mr. Katims indicated that the node extended significantly south of Eckerds. He clarified that direct access would have to be provided, however, it did not have to be the sole access.

Mr. Kutney commended Mr. Cosner for his comments relative to this matter and noted that it had not been the intent to "strip out" the nodes. The standards for the nodes were the same for every other area and that the area was to be increased to 65,000 square feet. Mr. Kutney explained that the intent was to provide for a better, planned development.

Douglas Bleau, 4425 SW 74 Terrace, was present on behalf of the Davie Country Estates Homeowners' Association and advised that he had a petition. He requested clarification in that the 45 foot height was limited to three stories with the rest being for architectural design. Mr. Bleau suggested that the notification be expanded to include property owners within 1,000 feet of the property in question.

Mr. Webber noted that Mr. Kovack had presented a petition during the public comment portion of the meeting.

Judith Tideman, 4270 SW 77 Avenue, expressed concern with regard to the fact that she knew nothing about this issue. She indicated that she was not trying to change the commercial zoning and she was relieved that nightclubs, car washes, and hotels would not be permitted near University Drive which as they were more appropriate in the eastern node near the Turnpike. Ms. Tideman noted her concerns with regard to fast food restaurants and their location and requested that more notification be provided.

Joel Gustafson indicated that he had sent a letter to Mr. Middaugh requesting a waiver which had been denied as a matter of policy. He indicated that he was not in a position to speak on behalf of his client, but his client would be making his own presentation.

Terry Step, 5079 and 5081 SW 48 Street, expressed concern with regard to the zoning being changed and that the present tenants in his warehouse would be grandfathered in. However, if his tenants were to move and a new tenant was not found within 90 days, he would be forced to find a tenant with a different use. Mr. Step noted that the proposed uses were restrictive to his type of business. He requested that his property be removed from the District and to leave his frontage as part of the District or change the language to permit his

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current and former tenants to be exempt from the application of this ordinance. Mr. Step noted the hardship of losing his tenants over this issue and acknowledged that if the property were redeveloped, then they would have to comply.

An unidentified man requested that the commercial node be moved from SW 76th Avenue to SW 78th Avenue. The property would remain commercial and the property could be developed within the confines of the ordinance. He requested that the building height be limited to three stories, 35 feet, inclusive of ground floor parking. The man also requested that hotel/motel uses be prohibited from the western gateway. It was his belief that these requests were in the best interest of the neighboring residents. He requested that Council not impact their standard of living by allowing the ordinance to be passed without the aforementioned amendments.

Bill Laystrom, representing the property owner at the southwest corner of Griffin Road and the Turnpike, questioned whether the building height would be 60 feet. He explained that the ordinance would affect the open space requirements, the setbacks, and the minimum lot spaces. Mr. Laystrom requested that Council consider a height increase due to the feasibility of a four-story hotel. He noted a request to table item 10.6 for two weeks.

Jim Anderson, 4720 SW 72 Avenue, commended staff on their recommendations with the exceptions that were previously noted by other residents. He expressed his desire to keep the height restriction to 45 feet and concurred with limiting the node along University Drive to 78th Street.

Diane Cosner acknowledged receipt of the documentation from the Planning and Zoning Division which she felt was vague. She stated that if the boundary were to be moved, the properties would still be commercial, however, they would be less intense. Ms. Cosner expressed her desire to remove movie theaters from the list and that the building height should be limited to three stories.

Scott Morecraft, 4650 SW 70 Terrace, concurred with the suggestion for a limitation of 35 feet with the extra 10 feet, if needed. He questioned why hotels/motels were put into the ordinance and why hospitals were in the Western Theme district. Mr. Morecraft expressed his belief that hospitals should not be permitted and requested clarification with regard to the agricultural or commercial designation.

Neal Kalis, representing Griffin 78 Limited, explained that a plat was currently being applied for for this property and noted that this property was zoned B-1 under the current Code. Several of the speakers had indicated that they would like to see this property removed from the University Drive node. He indicated that his client would be afforded the ability to construct a convenience store and acknowledged the opposition from residents. Mr. Kalis referenced the permitted uses for a one-story building in the B-1 zoning; however, under the proposed Code, if the property was removed from the University Drive node, his client would have to build a three-story building to be allowed to have those uses which he felt was a significant impact. He requested that his client be left in the University Drive node which would allow them to build some of the aforementioned uses without being required to build a three-story building. Mr. Kalis commended staff on their efforts and the residents should be complimented for providing input. With regard to the previous comments regarding Eckerds, he felt that an Eckerds would not be permitted under the proposed Code due to the requirements and the

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fact that the Florida architecture required a different style. Mr. Kalis clarified that within the node, staff was recommending that all the uses that the residents were opposed to be removed.

Christopher Scott, 4640 SW 78 Avenue, advised that he was in favor of moving the node to 78th Avenue and congratulated staff on a job well done.

Mayor Venis closed the public hearing.

Mr. Kutney provided an overview of the nodes and noted the current uses that would be permitted in the nodes. By decreasing the node and if the ordinance was not approved, the residents would not be provided the protection that the residents that they thought would be afforded. Essentially, with all the concessions that were being made, a downzoning was occurring relative to the amount of permitted uses and acknowledged that there was a problem with the C-1 zoning. Mr. Kutney indicated that the property owner could be grandfathered in if the zoning was applied to him and the owner would be required to follow the provisions of non-conformity.

Mr. Middaugh summarized that staff was attempting to change the flavor of the Griffin Road corridor to something that was in keeping with citizen/community desires. He noted that there was a conscious attempt to reshape and alter the corridor to something better. Mr. Middaugh felt that something that happened several years ago was not relevant today and added that the C-1 zoning currently had some of the most intense uses in commercial zoning. He explained that he would eventually like to see the property come into compliance since it was the goal of the corridor plan.

Councilmember Weiner questioned whether the timeframe could be extended to obtain a tenant if one moved out. Mr. Kutney indicated that an amortized schedule could be developed as long as it was applied universally to any non-conformity. He felt there was the ability to develop special sections due to the fact that this was a planned district. Mr. Step responded that this might provide some security, however, he did not want to be placed in a situation in which he was not able to rent the bays in his warehouse. He reiterated that none of the permitted uses would fit into the warehouse.

Mayor Venis requested that Mr. Kutney address the other concerns expressed by the residents.

Mr. Kutney explained that the notification process was tied into the master plan process which was the way in which the property would be reviewed under the ordinance. He acknowledged the concern with regard to notification as it related to the provision regarding waivers and it was his belief that the 500 foot range for notification was adequate. Mr. Kutney explained that in providing notification for this issue, 586 notices were distributed with 40 people being present during the sessions. He stated that if the range was increased, it would become cumbersome.

Councilmember Weiner expressed concern with regard to permitting a hospital near University Drive and suggested removing hospitals from the western and University nodes.

Councilmember Paul suggested removing the movie theater. Mr. Kutney noted that the traffic concerns would depend on the size and the time of day in which it was open. He indicated that movie theaters attempted to schedule their events so that there was a constant flow. Councilmember Paul reiterated previous concerns with regard to movie

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theater locations. Mr. Katims responded that there might be a multi-cinema complex along University Drive or its vicinity and was unsure of the marketing influences if one were located downtown or in a reverse scenario.

Mr. Kutney requested clarification as to Council's intent with regard to movie theaters and performing arts center. Councilmember Paul referenced Section 8 on the memorandum which indicated movie theaters and performing arts centers were a concern. Mr. Kutney noted that movie theaters had historically not been objectionable with the exception of some the parking ratio conflicts in shopping centers. Generally, most communities did not make them conditional uses or special exceptions.

Mayor Venis requested clarification on the affect of moving 78th Avenue to 76th Avenue. Mr. Kutney explained that the new uses were reduced from the currently permitted uses in B-1 and B-2. Councilmember Weiner clarified that the three stories with the ground floor parking would be eliminated.

Councilmember Weiner made a motion, seconded by Councilmember Cox, to approve the Griffin Road Corridor Study as presented by staff with the recommendations made tonight, incorporating the four housekeeping amendments from January 5th, as well as reducing the height from three stories or 35 feet with a 10 foot area for building the roof parapet, or otherwise consistent with the theme, excluding the eastern node from the height restriction from the Turnpike area and east of that area, as well as excluding hotels, movie theaters and performing arts centers, and granting the property in the eastern portion of Town in the C-1 District from 90 days to 120 days for a period to find a replacement tenant or they would lose their non-conforming use status.

Councilmember Weiner clarified that he was not incorporating changing the western node between 78th Avenue and 76th Avenue.

Councilmember Paul questioned the part of the motion mentioning no hotels. Councilmember Weiner stated that it would exclude hotels from the area immediately around the Turnpike and east of the Turnpike. Councilmember Cox clarified that this was would be from the east gateway zone west.

Councilmember Cox asked if the 45 foot height restrictions were for the commerce zone node and the east gateway node. Councilmember Weiner advised that his motion excluded these nodes.

Councilmember Paul stated that the motion eliminated the three floors with the ground floor parking. Councilmember Weiner responded affirmatively because they would have a 35 foot height.

In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 5-0)

The meeting recessed at 11:50 p.m. and was reconvened at 11:52 p.m.

Councilmember Weiner made a motion, seconded by Vice-Mayor Bush, to reconsider item 10.2 for the purpose of excluding hospitals from the western University Drive node. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 5-0)

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Councilmember Weiner made a motion, seconded by Councilmember Cox, to exclude hospitals from the western University node, in addition to the aforementioned motion. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 5-0)

10.6 Bill Laystrom, representing the petitioner, requested that this item be tabled to February 16, 2000. He noted that there should be no public opposition to this request.

Vice-Mayor Bush made a motion, seconded by Councilmember Paul, to table item 10.6 to the February 16, 2000 meeting. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 5-0)

10.3      **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,**  
2000-8      **FLORIDA, AMENDING THE TOWN CODE, CHAPTER 2, ARTICLE III,**  
                 **SECTION 2-41, ENTITLED "QUALIFYING DISTRICT BOUNDARIES" BY**  
                 **REDELINEATING GEOGRAPHICAL QUALIFYING DISTRICTS;**  
                 **PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE**  
                 **DATE.**

Town Clerk Reinfeld read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Weiner questioned the legal descriptions that were distributed. Town Clerk Reinfeld clarified that the description distributed prior to the meeting was the second version. She requested that if the ordinance was approved, that staff be authorized to review the legal description against the map as presented in the backup to ensure that the legal description was consistent with the map.

Councilmember Weiner made a motion, seconded by Vice-Mayor Bush, to approve item 10.3 as amended and as reflected on the map with direction to staff to conform the legal description to the map. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 5-0)

10.4      **LAND USE PLAN APPLICATION - AN ORDINANCE OF THE TOWN OF**  
                 **DAVIE, FLORIDA, APPROVING APPLICATION LABC (SS) 99-4A,**  
                 **AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY**  
                 **CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF**  
                 **CERTAIN LANDS FROM COMMUNITY FACILITY TO RESIDENTIAL (3**  
                 **DU/AC); PROVIDING FOR SEVERABILITY; AND PROVIDING AN**  
                 **EFFECTIVE DATE. (LABC (SS) 99-4A - Barbara Hall, Esq./Alpha Baptist**  
                 **Church, 5230 Pine Island Road)**

This item was withdrawn by the petitioner.



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*Quasi Judicial Hearings*

10.5 **REZONING** - ZB 5-1-99, Davie Truck Stop, 4751 SW 30 Street (from M-4 to TS) Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval subject to the planning report and that the two long term parking areas at the southern boundary of the conceptual site plan be designated as AC/DC (alternating current/direct current hook-up) parking

Mr. Webber explained the rules concerning the presentation of evidence. Town Clerk Reinfeld swore in the witnesses. Mark Kutney, Development Services Director, advised that his qualifications were on file in the Town Clerk's Office and entered the planning report. Mr. Kutney summarized the planning report and noted that an error in the finding of facts on page 512.309B1 which should refer to Section 12-307, A(1).

Tom Connick, present on behalf of Twin Lakes Travel Park, indicated that he was considered a party since the park was contiguous to this property. Mr. Webber clarified that Mr. Connick would be deemed a party for purposes of cross-examination and provided Mr. Connick the opportunity to cross-examine staff.

Mr. Connick requested Council's indulgence due to the significant impact on his client and requested that staff provide a copy of the aerial that was presented as part of the backup material designating the trailer park. He noted that the truck stop that was proposed included over 600 truck parking spaces, a 24-pump fuel section, a gym, a restaurant, office space, a repair shop, a convenience store, and a hotel which had been tabled.

Mr. Kutney responded to Mr. Connick's questions and noted that there were 164 spaces contiguous to the northern border of the travel park and the ingress road ran along the east side of the travel park. He explained that staff had no calculation as to the average truck traffic that would be using the road nor was there any specialized source that would be able to provide the projection. Mr. Kutney indicated that he was unsure of the existing buffer for noise at the trailer park and noted that the trucks may make significant noises, however, the question was posed in a subjective manner. He advised that what the effect of the truck noise over a 24-hour time period would have on the trailer park was not taken into consideration since the site was zoned industrial. Mr. Kutney stated that the trailer park site was for seasonal occupants and they would not necessarily be affected by the noise at the truck stop and along the road if proper buffering was in place. He noted that staff did not feel the traffic along Burris Road and the noise at the truck stop would not be detrimental. Mr. Kutney felt that a fuel spill might be potential detrimental to the travel park and clarified that he could not advise that the noise would be detrimental the park.

Mr. Kutney advised that he was not able to concur what the traffic and the noise that the truck stop would generate along the eastern boundary of Burris Road. He explained that the proposed truck stop would not affect property values because of the fact the property in question was zoned industrial and was the same zoning as the trailer park. Mr. Kutney agreed that the travel park had been operating for 27 years; however, disagreed that the value of the travel park would be adversely affected. He indicated that this issue might enhance the value of the park due to the improvement of the overall property in the area and noted that the anticipated truck density was not calculated because of the fact that this was a specialized use. By virtue of an agreement, Mr. Kutney advised that the property in question was required to have a truck stop zoning designation and felt that the zoning could be used in accord with the existing zoning designation of A-5. He indicated that based upon

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the site, size and location, industrial was probably not a good zoning designation. Mr. Kutney commented that it was not for him to decide the truck stop location and clarified that he was reacting to the application and that he could not "draw the lines". He concurred that there was a statement in the report that indicated that the proposed change would not adversely affect living conditions in the neighborhood. Mr. Kutney felt the truck stop would not have an adverse affect on the living conditions at the trailer park.

Mark Gordon, representing the petitioner, was present. Mr. Kutney responded to Mr. Gordon's inquiries that there was a different entrance to the Turnpike along State Road 84 and the toll road had been there since 1985 which was contiguous to the trailer park. He was not aware whether the road was heavily traveled by commercial vehicles, automobiles, and trucks. Mr. Kutney felt that the trucks that would use the road would be those that would utilize the businesses in the industrial area. He concurred that traffic would be generated from I-595, State Road 7, and the Turnpike. Mr. Kutney acknowledged that he was given a declaration of restrictive covenants and easements and conditions as part of the application process with a provision to control any exorbitant amount of noise that might emanate from the truck stop. He concurred that there had been a discussion at the Planning and Zoning Board meeting regarding the noise emanating from the truck stop and that there was a suggestion to install an ac/dc adapter so that the refrigerator trucks could operate independently from their own fuel source. It was his understanding that a six foot high masonry wall would be installed on top of a dirt buffer in order to suppress the noise from the property; however, he noted the caveat that this was a rezoning and was conceptual in nature and that the buffering would be addressed at time of site plan approval. Mr. Kutney felt that this was an acceptable alternative to the initially proposed suggestion of turning off the units.

Mr. Kutney responded to Mr. Connick's inquiries and agreed that trucks could be 13 feet in height which would have motors on top. He concurred that there was no provision to ensure that the trucks would continue to run their diesel engine with the exception that the applicant was required to police the activity. Mr. Kutney was not able to advise whether the wall would block out the noise from the truck stop and indicated that he was also not able to advise if a truck starting its engine or parking in the early morning hours would be an uncomfortable way to wake up. He clarified that the bulk of the trucks were centralized and provided an estimation of the number of truck spaces. Mr. Kutney advised that if the rezoning was approved, the applicant could present a site plan application based upon the conceptual master plan. He indicated that he would recommend approval of an application if the applicant came in requesting uses that were permitted in a truck stop as long as all the other requirements of the truck stop zoning were met. Mr. Kutney noted that if the applicant were to request only the hotel, mall, office spaces, gym, convenience store, the truck stop spaces, and the 24-pump fuel facility and was to remove the repair facility, he would not recommend approval of the plan since it was not a truck stop.

Jeffrey Straw, representing Geosonics Incorporated, indicated that Geosonics Incorporated was a vibration and acoustic consulting firm that dealt with vibration and noise by man-made events as well as various equipment. He noted that his background was in airport noise modeling, various other types of noises and their measurement. Mr. Straw advised that he had conducted a noise evaluation of the subject property with respect to the surrounding property. He described the subject property location and at the time of the evaluation, consideration had been given to traffic noise from I-595 and the Turnpike. Mr.

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Straw noted a number of other land use designations in the area including heavy dump truck type operations, a Waste Management facility, and a concrete facility. Additionally, air traffic patterns were noted as being part of the noise consideration. He indicated that at the subject property, the decibel level of airplanes and trucks was calculated. Mr. Straw described the area surrounding the trailer park as being primarily industrial and heavily commercialized areas. He explained that for the most part, the trailers were located to the south further away from the subject property. Mr. Straw referenced a small row of trailers that were in a corner near or adjacent to the property which he felt was an insignificant number as it related to the entire park. He indicated that trucks that were idling were measured at 10, 20, and 50 foot intervals with the measurement at 50 feet being 69.5 decibels. Mr. Straw referenced the Town's Code which allowed for 70 decibels of noise at the closest receiving land use property line which would be at the northern perimeter of the trailer park. Therefore, with eight trucks idling, the decibel level at 50 feet was less than the maximum allowed by the Town. If a buffer wall were to be constructed, the effect of the wall and dirt would reduce the noise by another 8 to 9 decibels and if vegetation were added, the decibel level would drop even further. The decibel level with respect to the Turnpike exit and I-595 ramp ranged from 66.9 to 67.4 decibels with truck traffic being measured at 71 decibels. He explained that the distance to the trailer park was immediately adjacent, however, he did not have an exact figure. He described the State Road 84 previous usage as being the primary off ramp for the Turnpike which at the time, was directly opposite to some of the trailers in the park. Mr. Straw mentioned that the decibel levels of traffic on I-595 along the northern boundary of the trailer park were in the range of 69-71 and that two motorcycles were measured at 81 to 82.7 as they drove across the road. For the most part, he indicated that the noise levels were high and added that this was not a quiet area. It was Mr. Straw's opinion that the concrete wall would be an adequate buffer and clarified that the trailers that were 100 feet away would still benefit by the noise reduction. He concurred that the noise level at 100 feet would be substantial less than proposed.

Mr. Connick questioned how much compensation Geosonics was receiving for conducting work for the applicant. Mr. Straw responded that his rate was \$100 per hour.

Mr. Straw clarified that his testimony reflected that at 50 feet, the Town's ordinance allowed 70 decibels and at 50 feet, the parked trucks complied with the Code. He concurred that levels at 10 and 20 feet did not meet Code. Mr. Straw indicated that the date of the measurement was conducted on February 1, 2000 and they were located at the Airport Inn which was a truck stop. It was his opinion that if there were 50 trucks, the decibel level would be on the order of the same levels and would not be significantly increased due to the individual decibel truck levels not being significantly changed. Mr. Straw noted that the State of Florida had a uniformed Statute which addressed vehicle traffic and was enforced by the Florida Highway Patrol and on an access road of any type, the Statute would apply. He explained that the approximate distance from the berm to the southernmost point outside of the berm to the trailers was, approximately 50 feet; however, he noted that on the other side, there would be the width of the berm and some offset of the trailer park. Therefore, the actual distance from the trucks to the trailers was more than the 50 foot offset. Mr. Straw indicated that along Burris Road, the traffic was the width of the road away from the trailers and clarified that noises within residential communities were desired to be 50 decibels during the day and 55 decibels at night. He commented that the decibel level would vary along Burris Road with a fully-loaded truck and noted that the decibel level of trucks

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on various parts of the interstate measured between 63 and 71. Mr. Straw could not advise of the exact decibel level and he commented that the State Statute would control the matter and not the Town ordinance.

Hyman Blad, also representing the petitioner, responded to Mr. Gordon's inquiries and noted that he was prepared to modify the master conceptual plan to incorporate a concrete wall, or that type, to act as a buffer. Mr. Blad indicated that he had compiled preliminary drawings and had conducted consultations with regard to how to engineer the wall so that there would be an effective sound buffer and reducer. He indicated that this was not being worked on at the time the application was presented to the Planning and Zoning Board and was a by product of trying to accommodate the individuals of the trailer park by developing a more effective buffer system. Mr. Blad advised that this would permit the truck operators to still idle their trucks, but so as not to inconvenience with sound and excessive noise to the trailer park. He clarified that the engine of the truck was not 13 feet in the air but approximately 5 feet and concurred the sound would be suppressed by the wall with the proper engineering. Mr. Blad noted that Frances Daniel, who was a technical engineer, would be working on the project.

Mr. Connick questioned whether Mr. Blad was aware of the location. Mr. Blad responded affirmatively and advised that the landscaped area along Burris Road could be considered a landscape buffer. He advised that there was a buffer of approximately 50 to 70 feet away from the trailers and indicated that he had no plans to place a buffer along Burris Road.

Mr. Connick noted that there were approximately 350 seasonal occupants of the park who contributed to the Town's economy. He indicated that the planned truck stop would destroy the business and the people who lived in the park. Mr. Connick noted that the developer lived in Weston and was asking the Town to approve a plan that would not be approved where he lived. The recent truck stop ordinance had "to promote the public safety" as part of its intent and purpose. He felt the truck stop did not do that and was harmful to the public safety. Mr. Connick questioned whether Council was aware that the truck stop called for over 600 truck parking spaces. The developer was requesting a truck stop that was 2 1/2 times as big as the Shenandoah truck stop with a 24 pump fueling area. He commented that there would be a small amount of transit truck drivers who would attract prostitutes and illegal drugs and noted that the truck stop would be a transit point for people to "bum rides". Mr. Connick indicated that alcohol would be available to truck drivers which was a deadly mix. He questioned if Council would like to operate the trailer park with a truck stop immediately next to it and if it felt that their business would benefit from the truck stop. Mr. Connick further questioned if Council would be distraught at ruining the quality of life for the occupants at the trailer park. He commented that the Shenandoah truck stop came close to approval, however, the residents benefited by the defeat and it was his belief that the same foresight could be sought by Council. Mr. Connick felt this was too serious of a step for the Council to act impulsively. He requested that Council not approve a 25 year disaster and that to deny the truck stop was the right thing to do.

Mr. Webber asked if anyone wished to provide testimony in favor of or opposition to the rezoning.

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Kirby Cannon, 3555 Burris Road, expressed concern with regard to alcohol being served to truck drivers and noted that alcohol was not sold in any truck stop that he had patronized. With regard to the sound, he noted that there were two engines that ran at approximately 180 decibels and were 13 feet, 6 inches in the air on the front of the trailer. Mr. Cannon explained that diesel trucks did not sit in idle so that the engine sleeves were not worn and that the air conditioner was kept running. He felt that a trailer could not be plugged into an ac/dc outlet and noted that the only plug ins would be to a telephone line or a cable TV line. Mr. Cannon indicated that diesel engines were cold running engines to keep performance up and explained that a diesel truck speed was determined by its gear not the rpm's of the engine. He advised that sound decibels changed when an engine was brought up to the rpm range. Mr. Cannon commented that Davie Road would not be as nice and would have to be maintained often. With regard to accidents, he felt the inversion of the crown road turning north on State Road 7 would cause a number of trucks to turn over. Mr. Cannon questioned the height of the berm and why the parking spaces were located near the trailers. He further questioned the drainage affects to the surrounding properties and whether there were catch basins.

Vice-Mayor Bush questioned whether Mr. Cannon was familiar with the LaMoncha Inn which he felt may have been close to the trailer park. Mr. Cannon indicated that the Fort Lauderdale Auction was housed on this property for some time. Mr. Rawls advised that it was located on the old State Road 84 access road a couple of hundred feet from the trailer park.

Scott Morecraft, 4650 SW 70 Terrace, commented that the exhaust pipes were at the top of the truck and was the majority of the noise and expressed concern with regard to the "reefer" trucks which did not plug into ac/dc outlets. He felt the hotel would be a small 50 room hotel and requested that it not be a motel type operation and everyone would be required to go through the front door.

Mr. Gordon noted that his clients had been a part of the Town since 1967 which was prior to the establishment of the trailer park. He explained that they came to an industrial area understanding that there would be consequences for coming into an area with high use industry and traffic. Mr. Gordon felt that this was another aspect of an industrial center which had to be done by creating an ordinance to allow for truck stops. He commented that the applicant had met every requirement under the ordinance in terms of setbacks, uses, and other requirements. The only recommendation from the review process was to try to control the noise; therefore, the berm and concrete wall idea was developed to minimize the noise. Studies of noise related activities were conducted this week so that Council could see that the noise would be baffled and muffled by the wall. Mr. Gordon noted the attempts to try and accommodate the surrounding neighbors. He indicated that most of the trailers were located away from the truck stop and therefore, the impact would be minimal with the exception of the trailers that were located adjacent to the wall and the property line.

Mr. Gordon felt it was interesting that Mr. Connick had suddenly come in advising that this was an evil type operation that should be kept out of the area. He indicated that last week, the owner of the trailer park had advised that he had no objection to the truck stop but wanted to know how the noise would be controlled and maintained. After doing extensive studies, the conclusion to the noise problem was to install a higher concrete wall similar to the wall on I-95 to act as a barrier. Mr. Gordon pledged to modify this aspect on the final master conceptual plan and site plan. He noted that the trailer park was zoned

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industrial and that the truck stop was also an industrial operation. Mr. Gordon commented that the trailer park had become acclimated to all the noise on the Turnpike, the planes, and the industrial traffic. He explained that this would not be a continual "train of trucks" and advised that there would be ample spaces to accommodate a truck stop. Mr. Gordon noted that the trucks would enter in one direction and leave in the other direction. He felt it was in the best interest of the Town, the industrial section, and the redevelopment of the area to permit this operation to continue.

Mr. Webber stated that the hearing was concluded.

Councilmember Paul questioned the height of the berm with Mr. Blad responding that the berm still needed to be engineered. It would be determined upon the measurements of the noise of the trucks and the wall would be engineered in a way that would block the noise from reaching the nearby trailer park. He noted that the closer the wall was to the trucks, the more noise would be blocked and commented that the wall surface needed to be reviewed. Mr. Blad indicated that the wall was currently proposed at six feet on top of a six foot berm; however the exact height had not been determined. He advised that the fuel was moved to the north due to the amount of noise and felt the long-term parking would create less noise. Mr. Blad noted that the truck bodies would help assist in stopping the noise from the rest of the truck stop to the trailer park. The width of the FPL easement was the entire length of the property and was approximately 75 - 80 feet in width. He advised that there was some truck parking on the easement and responded that there were "reefers" that were connected to ac/dc outlets.

Councilmember Paul questioned when the alcohol aspect would be addressed. It was noted that the ordinance addressed alcohol consumption.

Councilmember Weiner made a motion, seconded by Vice-Mayor Bush, to approve subject to staff and the Planning and Zoning Board recommendations. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Bush - yes; Councilmember Cox - yes; Councilmember Paul - yes; Councilmember Weiner - yes. (Motion carried 5-0)

- 10.6     **REZONING - ZB 12-3-99, Phoenix III Corporation/Speyer, 5401 SW 82 Avenue (from A-1 to RM-8)** *Planning and Zoning Division recommended denial; Planning and Zoning Board recommended approval subject to the declaration of restrictions*

This item was tabled earlier in the meeting.

*Items to be tabled*

- 10.7     **STAFF REQUESTING A TABLING TO FEBRUARY 16, 2000**

REZONING - ZB 11-2-99, Hotel Inn, 10220 State Road 84 (from A-1 to B-3)  
(tabled from January 19, 2000)

This item was tabled earlier in the meeting.

- 10.8     **PLANNING AND ZONING BOARD TABLED TO MARCH 8, 2000;  
COUNCIL CAN TABLE TO MARCH 15, 2000**

REZONING - ZB 12-2-99, Laystrom/95 WHSE, Inc., 7085 Nova Drive (from M-1, Old Code and R-4A to RM-16)

This item was tabled earlier in the meeting.

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**10.9 PLANNING AND ZONING BOARD TABLED TO FEBRUARY 9, 2000; COUNCIL CAN TABLE TO FEBRUARY 16, 2000**

VARIANCE - V 11-3-99, Glover/Andrx Corporation, 4955 Orange Drive  
This item was tabled earlier in the meeting.

**10.10 PLANNING AND ZONING BOARD TABLED TO FEBRUARY 23, 2000; COUNCIL CAN TABLE TO MARCH 1, 2000**

SPECIAL PERMIT - SE 12-1-99, Davie Truck Stop, 4751 SW 30 Street  
This item was tabled earlier in the meeting.

**11. APPOINTMENTS**

11.1 Budget Advisory Committee (one exclusive appointment - Councilmember Cox) (insofar as possible, members shall have experience in financial related occupations or similar skills; term of January to December 2000)

Councilmember Cox appointed Susan [Pennetti] from NationsBank.

11.2 Davie Water Advisory Board (one exclusive appointment - Vice-Mayor Bush) (insofar as possible, one member of the Board shall be a licensed engineer; term of January to December 2000)

Vice-Mayor Bush appointed Ivan Reich.

11.3 Senior Citizen Advisory Committee (two exclusive appointments - Vice-Mayor Bush) (appointments for a one year term and two year term) (terms expire December 2000)

Vice-Mayor Bush deferred his appointments to the next meeting.

11.4 Citizen Assembly - Non-Homeowner Representatives (two exclusive appointments per Councilmember)

Councilmember Cox appointed Patti Reid and Mary Delborella. Councilmember Weiner appointed Bob Levy and deferred his second appointment. Councilmember Paul appointed Ken DeArmist and Janet Raether. Mayor Venis and Vice-Mayor Bush deferred their appointments to the next meeting.

**12. OLD BUSINESS**

12.1 Super Majority Vote for Land Use Changes

This item was deferred to the next meeting.

**13. NEW BUSINESS**

13.1 Schedule Special Meeting for Executive Session - Town of Davie vs. City of Sunrise, Case No. 98-018324 (14) - February 16, 2000 at 6:00 p.m.

It was the consensus of Council to schedule a special executive session for February 16, 2000.

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**14. ADJOURNMENT**

There being no objections or further business, the meeting was adjourned at 1:43 a.m.  
p.m.

APPROVED \_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk